

MAINE SUPREME JUDICIAL COURT

Reporter of Decisions

Decision: 2003 ME 148

Docket: Yor-03-329

Submitted

On Briefs: November 25, 2003

Decided: December 19, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, CALKINS, and LEVY, JJ.

PHILIP J. MALONSON

v.

TOWN OF BERWICK

DANA, J.

[¶1] The Town of Berwick appeals from a judgment of the Superior Court (York County, *Fritzsche, J.*) vacating the Berwick Planning Board’s determination that Philip J. Malonson’s proposal to convert a nursing care facility into a home for recovering alcoholics would not be a “boardinghouse” as that term is defined in the Berwick Land Use Ordinance. The court concluded that the proposal would be a “boardinghouse” and remanded the case to the Board to determine whether “the other requirements for a [conditional] use permit” were met.<sup>1</sup> Because there is no final judgment before us, we dismiss the appeal.

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<sup>1</sup> The court also observed: “[i]f on remand the Planning Board finds that the other requirements for a use permit are met and the facility comes to be, then the neighbors and Town officials would be justified in holding the applicant to his promises of a safe and well run program.”

[¶2] We have long held that “appeals from court orders remanding a matter to [an] . . . administrative agency for further action are interlocutory appeals that we will not address on the merits until the action on the remand has been completed.” *Doggett v. Town of Gouldsboro*, 2002 ME 175, ¶ 8, 812 A.2d 256, 259. On rare occasions we have taken direct appeals of remand orders when the remaining action is essentially ministerial, such as the formal issuance of a permit. *E.g., Rockland Plaza Realty Corp., v. City of Rockland*, 2001 ME 81, ¶ 6, 772 A.2d 256, 259. We also recognize several narrow exceptions to the final judgment rule, but “have limited their application to extraordinary situations.” *Musson v. Godley*, 1999 ME 193, ¶ 5, 742 A.2d 479, 481 (citing *State v. Maine State Employees Ass’n*, 482 A.2d 461, 464 (Me. 1984)). None of these exceptions apply here.

The entry is:

Appeal dismissed. Remanded to the Superior Court for remand to the Town of Berwick Planning Board for further proceedings consistent with this opinion.

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